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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/486,334	07/18/2000	MICHEL DROUX	PH-98/080	6869

7590 11/21/2002

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EXAMINER

KUBELIK, ANNE R

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 11/21/2002

23

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/486,334

Applicant(s)

DROUX ET AL.

Examiner

Anne R. Kubelik

Art Unit

1638

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☒ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 22.
10. ☒ Other: See Continuation Sheet

Continuation of 2. NOTE: 112, 2nd; Claim 20 is indefinite in its recitation of "naturally expressed fusion protein". Fusion proteins are constructs involving a portion from one protein and another portion from another protein. It is thus unclear what a naturally expressed fusion protein is. Claim 72 lacks antecedent basis for the limitation "said nucleic acid sequence" in line 8.

Continuation of 3. Applicant's reply has overcome the following rejection(s): 112, 1st in part - rejection over OTP is withdrawn, as is enablement/written description rejection of plant SATs.

Continuation of 5. does NOT place the application in condition for allowance because:  
112 1<sup>st</sup>, enablement: Mutant SATs: Takagi et al was published after the priority date for the instant application and thus cannot be considered enabling. Nakamori et al teaches mutation of one amino acid of the E. coli enzyme - the specification does not teach which amino acid of the Arabidopsis enzyme that this position corresponds to.

103(a): Saito in view of Noji: Saito et al teaches that plants transformed with the chloroplast version of CS (the 4F plants) had increased cysteine content (pg 891, left column, paragraph 2, to pg 892, left column, paragraph 2) as cited in the first Office action. Saito do suggest expressing SAT in these plants for maximal cysteine formation (pg 893, left column, paragraph 1). Noji et al teach a nucleic acid encoding SAT. Contrary to Applicant's arguments, the claims are not drawn to overexpressing SAT alone - the claimed method COMPRISES overexpressing SAT; the open claim language does not exclude also expressing another gene. Applicant admits that Saito in view of Noji suggest expressing both CS and SAT (response pg 18). Claims 2-6, 12-13, 17, 19-20, 23-26 and 60-71 remain rejected over Saito in view of Noji further in view of Svab for reasons of record. Additionally, Applicant attacks the references individually, instead of in combination.

Continuation of 10. Other:

Non-elected claims and SAT sequences other than SEQ ID NO:1 and SAT3 must be cancelled.

The specification is objected to because it lacks Figure legends. Note also that SEQ ID NOs: of any sequences listed in the figures must be recited in the legend.

The substitute specification and amendment to the specification have not been entered, but would be if resubmitted with allowable claims. Also note the improper hyperlink on pg 42, line 21; this must also be amended.

DAVID T. FOX  
PRIMARY EXAMINER  
GROUP 180/638

